

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-7020**

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ROBERT C. GRAY,

Petitioner - Appellant,

versus

GENE M. JOHNSON, Director of the Virginia  
Department of Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Norfolk. Raymond A. Jackson, District  
Judge. (CA-03-640-2)

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Submitted: September 9, 2004                      Decided: September 16, 2004

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Before WILKINSON, MICHAEL, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Robert C. Gray, Appellant Pro Se. Robert H. Anderson, III, OFFICE  
OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for  
Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Robert C. Gray appeals from the denial of his 28 U.S.C. § 2254 (2000) petition by the district court. An appeal may not be taken from the final order in a § 2254 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that jurists of reason would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001).

We have reviewed the record and conclude that Gray has not made the requisite showing. Although we grant Gray's motion to proceed in forma pauperis, we deny a certificate of appealability and dismiss the appeal. We further deny Gray's motion for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid in the decisional process.

DISMISSED